Poland is violating the fundamental rights of EU citizens and blatantly disregarding EU treaties and standards

Press Release, Anti-discrimination, European Commission, Poland, Rule of Law

The European Commission and member states are duty bound to hold Poland accountable to EU Treaties, asserts ILGA-Europe, alongside two Polish equality organisations, in a legal complaint citing the violation of fundamental rights of the EU by inciting hatred and discrimination against LGBTI people.

On Monday 14 September, ILGA-Europe together with Polish LGBT rights organisations KPH (Campaign Against Homophobia) and Fundacja Równo?ci (The Equality Foundation) submitted **a legal complaint to the European Commission about so-called Family Charters and LGBT Free Zones**, which over 100 Polish local governments have adopted over the last two years.

The complaint sets out how these **declarations** introduce discrimination against LGBTI people and **thus breach the European Council Directive (2000/78/EC)**, establishing a general framework for equal treatment in employment and occupation, as well as the **Charter of Fundamental Rights Article 15 on Freedom to choose an occupation and right to engage in work, and Article 21 on non-discrimination.**

At the same time, **many Polish LGBTI people have begun to write to the European Commission**, often anonymously out of fear of further stigmatisation and hate, putting forward individual complaints about how they are being discriminated against in the cities that have declared themselves LGBT-free Zones and adopted Family Charters. Over 400 individual complaints were sent to the European Commission by LGBTI persons, sharing their fears for employment, health and life and their stories of discrimination in Poland.
With this complaint, ILGA-Europe and partners provide the legal analysis of how these Charters do not, as claimed by the Polish Prime Minister in a recent letter to the European Commission, protect Polish families, but instead put in place active discrimination against LGBTI people. Although there is no clear individual court case claiming discrimination in recruitment or employment at this point, the analysis shows clearly how the principles of Directive 2000/78/EC and the Charter of Fundamental Rights are being violated.

According to **KATRIN HUGENDUBEL**, Advocacy Director of **ILGA-EUROPE**: “**The European Commission and Council can no longer remain silent in the face of such blatant violations of the principle of non-discrimination by a member state**. Our legal analysis of the texts of the Family Charter clearly dismantles their discriminatory nature. The European Commission is duty-bound to answer the Polish Prime Minister’s letter, clearly rejecting the argument of “defending Polish families” and addressing the real harm that is being perpetrated on LGBTI people in Poland. EU law is being violated and the EC needs to start infringement procedures.”

According to **MIKO CZERWI?SKI** from **FUNDACJA RÓWNO??**: “Working in so-called ‘LGBT-free Zones’ we see what detrimental effect this is having on LGBTI people. They are losing their jobs or contracts, are excluded from local communities and are being violently attacked in their own cities. Fundacja Równo?? have also submitted complaints to the EC as we were denied access to an EU-funded cultural centre with the argument that we wanted

to hold an “ideological event”, while a homophobic event was allowed to go ahead. **The examples of discrimination and violence provided in all of the 400 individual complaints sent to the EC show how seriously Poland is violating fundamental rights.”**

According to **MIROS?AWA MAKUCHOWSKA** from **CAMPAIGN AGAINST HOMOPHOBIA (KPH)**: “LGBT people living in so-called ‘LGBT-free Zones’ cannot wait any longer. Hundreds of complaints have been sent to EC as fundamental rights are being violated on a daily basis. It’s high time for both EC and the Council to act – the citizens are calling for the immediate trigger of infringement procedure and to finally act under the Article 7(1) TEU procedure.”

Poland’s Family Charters are only one element in the hate campaign that Polish LGBTI people have been subjected to since 2018. In the country’s presidential elections earlier this year, President Andrzej Duda degraded and scapegoated the LGBTI community in his campaign for election victory. This included claims that LGBT people “are not people, but ideology” and “more destructive than communism”, among other attempts at dehumanisation and incitement of hatred and fear. In the 2020 ILGA-Europe Rainbow Map, which benchmarks European countries in terms of LGBTI rights, **Poland became the lowest ranking EU country**, having lost points because LGBTI human rights defenders have been increasingly at risk, authorities have taken active measures to undermine civil society associations, and there have been attempts to ban public events.

Last week, the Polish Commissioner for Human Rights, published his **investigation of the arrests and detention of 48 LGBTI activists**, which took place over the weekend of 7-9 August 2020, identifying degrading treatment, bordering on inhumane, in arrest and detention, and breaches of fundamental rights as set out in the Treaty and the Charter of Fundamental Rights, including mistreatment, the right to legal help, to inform a close person, to access to medical help, and the right to information.

KATRIN HUGENDUBEL concludes: “We have seen first actions by the European Commission in August, when Commissioner Dalli rejected six applications for town twinning projects by local governments who have declared themselves LGBT-free zones, but we need a more coordinated and holistic response, both from the European Commission and the European Council.

EC President, Ursula von der Leyen will address the Parliament with her State of the Union speech tomorrow, Wednesday morning. What state is the Union in when Member States are freely violating the fundamental rights of EU citizens, and the principles of non-discrimination as set out in the Treaty?”

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- For a timeline of anti-LGBT hatred in Poland, click here.
- For ILGA-Europe’s Rainbow Map 2020, benchmarks European countries in terms of LGBTI rights, click here.